

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

TRUSTEES OF THE ELECTRICAL WORKERS )  
 HEALTH AND WELFARE TRUST, *et al.*, )

Plaintiffs, )

vs. )

F.A.S.T. SYSTEMS, INC. *et. al.*, )

Defendants. )

Case No. 2:12-cv-00148-JCM-CWH

**ORDER**

This matter is before the Court on Plaintiffs' Motion to Stay Proceedings (#41), filed on January 18, 2013. The Court also considered Defendant Fidelity and Deposit Company of Maryland's Joinder (#42), filed on January 24, 2013.

**BACKGROUND**

On January 27, 2012, Plaintiffs filed this action seeking delinquent contributions, costs, and damages regarding the Employee Retirement Income Security Act of 1974, a collective bargaining agreement, and trust agreements. On August 17, 2012, F.A.S.T. Systems, Inc. ("F.A.S.T.") filed for Chapter 7 Bankruptcy. U.S. Bankruptcy Court, District of Nevada, Case No. 12-4646263. On September 5, 2012, F.A.S.T. filed a notice of bankruptcy with this court. *See* Suggestion of Bankruptcy #18. As a result, an automatic stay with respect to F.A.S.T. has been in effect since September 5, 2012. *See* Amended Order #22. In the instant motion, Plaintiffs request that a stay be instituted with respect to the other Defendant, Fidelity and Deposit Company of Maryland ("Fidelity").

**DISCUSSION**

The Federal Rules of Civil Procedure do not provide for automatic or blanket stays. *Skellercup Indus. Ltd. V. City of L.A.*, 163 F.R.D. 598 600-01 (C.D. Cal 1995) (finding that a stay of discovery is directly at odds with the need for expeditious resolution of litigation. Ordinarily a

1 pending dispositive motion is not “a situation that in and of itself would warrant a stay of  
2 discovery.” *See Turner Broadcasting System, Inc. v. Tracinda Corp.*, 175 F.R.D. 554, 555-56 (D.  
3 Nev. 1997) (quoting *Twin City Fire Ins. v. Employers Insurance of Wausau*, 124 F.R.D. 652, 653  
4 (D.Nev. 1989)). Common examples of such situations when a stay may be appropriate are when  
5 jurisdiction, venue, or immunity are preliminary issues. *Id.* Ultimately, the party seeking the stay  
6 “carries the heavy burden of making a ‘strong showing’ why discovery should be denied.” *Id.*  
7 (citing *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir.1975)).

8 Courts have broad discretionary power to control discovery including the decision to allow  
9 or deny discovery. *See e.g., Little v. City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988). An overly  
10 lenient standard for granting motions to stays due to pending dispositive motions would result in  
11 unnecessary delay in many cases. That discovery may involve inconvenience and expense is not  
12 sufficient to support a stay of discovery. *Turner Broadcasting*, 175 F.R.D. at 556.<sup>1</sup> Rather, a stay  
13 of discovery should only be ordered if the court is convinced that a plaintiff will be unable to state a  
14 claim for relief. *See Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 603 (D. Nev. 2011).

15 The Court finds that Plaintiffs have made the strong showing necessary to support the  
16 requested stay of discovery. Plaintiffs seek a stay of this action pending the outcome of a state  
17 case. On December 7, 2012, Defendant Fidelity filed an interpleader action in state court. Case  
18 No. A-12-67338-C. In its Joinder, Fidelity alleges that the interpleader action shall dispose of  
19 Plaintiff’s claim. Therefore, the parties contend that a stay of this action pending the resolution of  
20 that case is appropriate. Given Defendant Fidelity’s lack of opposition, the Court finds good cause  
21 to stay this action pending the outcome of the interpleader case. Such a stay will promote judicial  
22 efficiency as the outcome of the state interpleader action will assist in the resolution of this case.  
23 Accordingly, the Court will grant a stay until the state interpleader action is resolved. However, the  
24 Court will require that the parties file joint interim status reports in sixty (60) days and one hundred  
25 and twenty (120) days to keep it apprised of the progress of that action.

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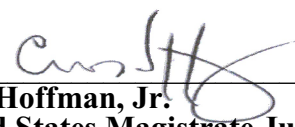
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28 <sup>1</sup> As noted in *Tradebay*, “[t]he fact that a non-frivolous motion is pending is simply not enough to warrant a blanket stay of all discovery.” 278 F.R.D. at 603.

1 Based on the foregoing and good cause appearing therefore,

2 **IT IS HEREBY ORDERED** that Plaintiffs' Motion to Stay Proceedings (#41) is **granted**.

3 **IT IS FURTHER ORDERED** that the parties shall file joint interim status reports on April  
4 5, 2013 and June 5, 2013.

5 DATED this 5th day of February, 2013.

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9 **C.W. Hoffman, Jr.**  
10 **United States Magistrate Judge**  
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